

ORIGINAL

**Before the
Federal Communications Commission
Washington, D.C. 20554**

RECEIVED

JAN 16 1996

In the Matter of)

Closed Captioning and Video Description)
of Video Programming)

MM Docket No. 95-176

TO: The Commission

DOCKET FILE COPY ORIGINAL

Motion to Extend the Comment Period

The National Association of Broadcasters ("NAB"), the Association of Independent Television Stations, Inc. ("INTV"), Capital Cities/ABC, Inc., CBS Inc., Fox Broadcasting Company, and the National Broadcasting Company, Inc. [hereinafter collectively "Broadcasters"] hereby move for an extension of the comment period in the above-referenced proceeding. Comments are presently scheduled to be filed on January 29. Because the adoption of rules concerning closed captioning of television programs — the subject of this proceeding — is also addressed by pending legislation, Broadcasters believe that both their resources and those of the Commission would be poorly used in preparing and considering comments on the issues raised in the *Notice of Proposed Rulemaking* when a second set of comments would almost certainly have to be sought on similar issues if Congress adopts captioning legislation. The Commission, therefore, should extend the comment period in this proceeding to allow the filing of comments after Congress has acted on captioning.

Both the House and the Senate have passed versions of telecommunications legislation that would require the Commission to adopt new rules requiring closed captioning of most television programming. S. 652, 104th Cong., 1st Sess. § 308 (1995); H.R. 1555, 104th Cong., 1st

No. of Copies rec'd
List ABCDE

49

Sess. § 204 (1995). Section 305 of the draft conference report on the telecommunications bill would add a new section 713 to the Communications Act, requiring the Commission to survey the level of captioning of television programming within 180 days and then to adopt rules requiring captioning of most programming, exempting certain types or categories of programming where captioning would be “economically burdensome” or result in an “undue burden.”

The draft conference bill also would require the Commission to initiate an inquiry within six months concerning the use and feasibility of video description services and then to report to Congress (at an unspecified date) on its findings. The bill does not require the Commission to adopt rules requiring video descriptions and, indeed, it does not even require that the Commission propose such rules to Congress.

In the *Notice*, the Commission asks for information on the level of closed captioning currently provided and for information about the relationship between the type of programming or programming source and the level of closed captioning. *Notice* ¶ 14. Although the Commission does not in the *Notice* propose to adopt mandatory captioning requirements, it asks commenters to describe the form such rules should take if the Commission decides to impose them. *Id.* ¶ 26. At the same time, the Commission asks for information about the amount of video description services currently available to viewers and requests comments on the possibility of mandatory video description service requirements.

Although the issues raised in the *Notice* and the issues that the Commission would be required to address were the telecommunications bill to pass in its present form both concern closed captioning of television programming, the information that Broadcasters would collect and file and the questions to be addressed by the Commission would be quite different in the two

situations. If the telecommunications bill does not pass (or the provisions concerning captioning and video description are removed), the focus of Broadcasters' comments would be the amount of captioned programming that is now available to hearing-impaired viewers and trends in the availability of such programming that would indicate the likelihood of growth in the future. Broadcasters' comments would address whether the Commission should adopt any new captioning regulations, or instead continue its longstanding policy of encouraging captioning, a policy that — combined with efforts of the Department of Education — has resulted in the captioning of almost all network programming and much other newly produced programming as well. *See Notice* ¶ 13.

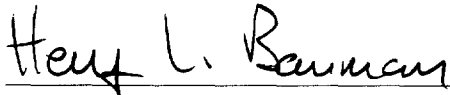
On the other hand, if the provisions of the draft telecommunications bill were enacted, the issues to be addressed by Broadcasters and the Commission would be quite different. There would be no need for either commenters or the Commission to be concerned with trends in the availability of captioned programming or the need for regulation, for the Congress would have pretermitted those issues by requiring the Commission to adopt captioning regulations. Instead, the focus of comments would have to be on the economic burden that captioning requirements would pose for certain types of programmers and programming.

Further, while the Commission in the *Notice* viewed the issues of video description services as similar to closed captioning, it appears that Congress takes a different view. Although the draft bill does mandate adoption of captioning rules on an expedited basis, it only requires the Commission to report to Congress on video description questions and does not set a deadline for completion of that report.

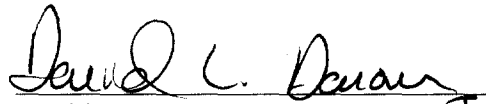
Efforts expended by Broadcasters and others to respond to the *Notice* and by the Commission to review those comments are thus likely to be largely for naught if Congress adopts the telecommunications bill since the Commission would almost certainly be required to request further comments on the specific issues raised by the bill. Given the burdens on the Commission's staff caused by the extended Government shutdown, reducing the number of comments filed in this proceeding and focusing them more on the specific issues to be resolved by the Commission would also help to expedite the Commission's processes.

Wherefore, Broadcasters move the Commission to extend the date for filing comments in this proceeding until 30 days after the date of enactment of the Telecommunications Act of 1995, or — if Congress fails to adopt a bill — until a further order of the Commission. Because of the Government shutdown, Broadcasters were unable to file this request earlier and, therefore, have been impeded in the preparation of comments. If the Commission is not able to grant this motion, Broadcasters request that the comment date nonetheless be extended for at least 30 days, an extension which we believe would not delay consideration of this matter in light of the government shutdown and the backlog of matters that now confront the Commission and its staff.

Respectfully submitted,



Henry L. Baumann *JN6*

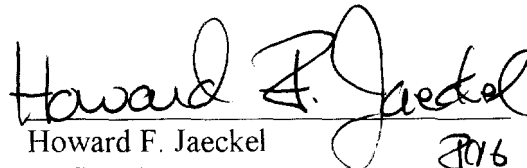
Jack N. Goodman
NATIONAL ASSOCIATION OF
BROADCASTERS
1771 N Street, N.W.
Washington, D.C. 20036
202-429-5430



David L. Donovan *JN6*

ASSOCIATION OF INDEPENDENT
TELEVISION STATIONS, INC.
1320 19th Street, N.W.
Washington, D.C. 20036
202-887-1970




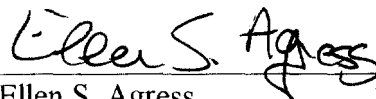
Sam Antar 
CAPITAL CITIES/ABC, INC.
77 W. 66th Street
New York, NY 10023
212-456-7777

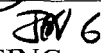


Howard F. Jaeckel 
CBS INC.
51 W. 52nd Street
New York, NY 10019
212-975-4321



Preston R. Padden 
FOX BROADCASTING COMPANY
5151 Wisconsin Avenue, N.W.
Washington, D.C. 20016
202-895-3190



Ellen S. Agress 
NATIONAL BROADCASTING
COMPANY, INC.
30 Rockefeller Plaza
Suite 1022
New York, NY 10112
212-664-4444

January 16, 1996